

Sentence Review Division
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SENTENCE REVIEW DIVISION
OF THE SUPREME COURT
STATE OF MONTANA

AUG 27 2020

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,)	Cause No. DC-14-002
)	
Plaintiff,)	Jefferson County District Court
)	
-vs-)	Montana Fifth Judicial District
)	
TIMOTHY CHEETHAM,)	DECISION
)	
Defendant.)	

On February 4, 2014, the Defendant was sentenced in the District Court as follows: Count I: One-Hundred (100) years to the Montana State Prison, with fifty (50) years suspended, for the offense of Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503, MCA; Count II: One-Hundred (100) years to the Montana State Prison, with fifty (50) years suspended, for the offense of Sexual Assault, a Felony, in violation of §45-5-502, MCA; and Count III: One-Hundred (100) years to the Montana State Prison, with fifty (50) years suspended, for the offense of Sexual Abuse of Children, a Felony, in violation of §45-5-625, MCA. The Court ordered the sentences to run consecutively. The Judgement further requires the Defendant to complete, successfully, all phases of the Montana State Prison's Sex Offender Treatment Program prior to his eligibility for parole. The Defendant was designated a Tier 2 sex offender.

On August 7, 2020, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by teleconference and was represented by Stephanie DeBoer, who appeared by videoconference from Missoula, Montana. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also to increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

It is the unanimous finding of the Division that the sentence imposed in the District Court is clearly excessive.

ORDER

Therefore, the Judgment of the District Court is AMENDED as follows:

On Count I: Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503, MCA, the Defendant is committed to the Montana State Prison for a term of One-Hundred (100) years, with fifty (50) years suspended;

On Count II: Sexual Assault, a Felony, in violation of §45-5-502, MCA, the Defendant is committed to the Montana State Prison for a term of One-Hundred (100) years, with fifty (50) years suspended;

On Count III: Sexual Abuse of Children, a Felony, in violation of §45-5-625, MCA, the Defendant is committed to the Montana State Prison for a term of One-Hundred (100) years, with fifty (50) years suspended;

The sentences on Counts II and III shall run concurrently, and the sentences on Counts II and III shall run consecutively to the sentence on Count I.

The parole restriction is STRICKEN.

In all other aspects, the Judgment of the District Court dated February 4, 2014, is affirmed.

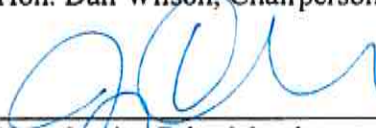
Done in open Court this 7th day of August, 2020.

DATED this 20 day of August, 2020.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chairperson



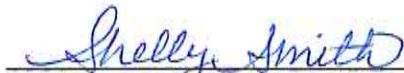
Hon. Jessica Fehr, Member



Hon. John Warner, Alternate Member

Copies mailed or emailed this 27th day of August, 2020, to:

Clerk of District Court
Timothy Cheetham #3014902, Defendant
Hon. Luke Berger
Stephanie DeBoer, Defense Counsel
Mathew Johnson, Esq.
Board of Pardons and Parole
MSP - Records Dept.



Shelly Smith, Office Administrator
Sentence Review Division